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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,796	09/23/2003	William B. Dawson	KEY 1028USC2	4101
9561	7590	03/08/2006	EXAMINER	
POPOVICH, WILES & O'CONNELL, PA 650 THIRD AVENUE SOUTH SUITE 600 MINNEAPOLIS, MN 55402			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,796

Applicant(s)

DAWSON ET AL.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8,9,14,15 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,8,9 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The new limitations of “the first ledge extending outward from the first side....the second ledge extending outward from the second side...” is indefinite. The ledges appear to extend outwardly from the first and second upper faces, not the first and second sides. The ledges are parts of the first and second sides, and a structure cannot extend outwardly from itself.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Samuel et al (3086327).

Samuel et al (figures 11, 4) shows a landscaping block comprising a top surface(54) and an opposed bottom surface (opposite top surface), first and second opposed sides (figure 11 where part 52 is, including the space not cover by part 52), each side extending from the top surface to the bottom surface, opposed first and second ends (44, and the opposite thereof), each end extending from the top surface(54) to the bottom surface(bottom of 44) and from the first

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side to the second side, the first end (figure 11 where the edge 46 is) being wider than the second end (44) at a surface selected from the top and bottom surfaces, the first end being larger in area than the second end, the first side including a first upper face (the thickness of the part 54, figure 11) extending from the top to a first ledge (the area not covered by part 54), the first ledge extending to a first lower face, the first ledge extending outwardly from the first side, the first side comprising only one ledge (the embodiment when only one part 54 is present, col 4 line 16), the second side comprising a second upper face (the other side of part 54 and its thickness thereof) extending from the top to a second ledge (the opposite ledge figure 11), the second ledge extending to a second lower face, the second ledge extending outward from the second side, the second side comprising only one ledge (the embodiment when only one part 54 is present, col 4 line 16).

Per claim 8, Samuel et al shows all the claimed structural limitations. The block inherently is able to function as claimed by interlocking when the first side of the landscaping block is placed adjacent the second side of another landscaping block.

3. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Samuel et al (3086327).

Samuel et al (figures 4, 8, 11) shows a landscaping block system comprising multiple blocks (figure 8), each block having a top surface(54) and an opposed bottom surface (opposite top surface), first and second opposed sides (figure 11 where part 52 is, including the space not cover by part 52), each side extending from the top surface to the bottom surface, opposed first and second ends (44, and the opposite thereof), each end extending from the top surface(54) to the bottom surface(bottom of 44) and from the first side to the second side, the first end (figure

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11 where the edge 46 is) being wider than the second end (44) at a surface selected from the top and bottom surfaces, the first end being larger in area than the second end, the first side including a first upper face(the thickness of the part 54, figure 11) extending from the top to a first ledge (the area not covered by part 54), the first ledge extending to a first lower face, the first ledge extending outwardly from the first side, the first side comprising only one ledge (the embodiment when only one part 54 is present, col 4 line 16), the second side comprising a second upper face (the other side of part 54 and its thickness thereof) extending from the top to a second ledge (the opposite ledge figure 11), the second ledge extending to a second lower face, the second ledge extending outward from the second side, the second side comprising only one ledge (the embodiment when only one part 54 is present, col 4 line 16), the blocks being positioned such that when the first side of the landscaping block being placed adjacent the first or second side of another of the landscaping blocks, the first and second ledges forming an interlocking relationship (inherently capable of functioning as claimed).

4. Claims 1, 8, 9, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheiwiller (4627764).

Scheiwiller (figures 1, 10) shows a landscaping block system comprising multiple blocks (figure 3), each block comprising a top surface(4) and an opposed bottom surface (opposite top surface), first and second opposed sides (3 and the side to the left), each side extending from the top surface to the bottom surface, opposed first and second ends (figure 1, the ends to the front and back of the block), each end extending from the top surface to the bottom surface and from the first side to the second side, the first end (figure 10, the end which is wider) being wider than the second end (figure 10) at a surface selected from the top and bottom surfaces, the first end

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being larger in area than the second end, the first side including a first upper face (from the edge of surface 4 to the bottom of recess 2, figure 1) extending from the top to a first ledge, the first ledge extending to a first lower face, the first ledge (beginning at the bottom of recess 4 to the top of side 3) extending outwardly from the first side, the first side comprising only one ledge, the second side comprising a second upper face (from the edge of surface 4 to the bottom of recess 2, figure 1) extending from the top to a second ledge (beginning at the bottom of recess 4 to the top of side 3), the second ledge extending to a second lower face, the second ledge extending outward from the second side, the second side comprising only one ledge, the blocks being positioned such that when the first side of the landscaping block being placed adjacent the first or second side of another of the landscaping blocks, the first and second ledges forming an interlocking relationship (inherently capable of functioning as claimed).

Per claim 8, Scheiwiller shows all the claimed structural limitations. The block inherently is able to function as claimed by interlocking when the first side of the landscaping block is placed adjacent the second side of another landscaping block.

Response to Arguments

Applicant's arguments with respect to claims 1, 8-9, 19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different designing blocks.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A *PA*

02/22/06

LANNA MAI
SUPERVISORY PATENT EXAMINER
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